

include milk from each farm bulk tank.

(ii) *Milk in cans.* A sample shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.

(3) Load milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) *Milk in bulk milk pickup tankers.* A sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling.

(ii) *Milk in cans.* A sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.

(4) *Follow-up to positive-testing samples.* (i) When a load sample tests positive for drug residue, the appropriate State regulatory agency shall be notified immediately of the positive test result and of the intended disposition of the shipment of milk containing the drug residue.

(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

[50 FR 34672, Aug. 27, 1985, as amended at 58 FR 26912, May 6, 1993; 67 FR 48975, July 29, 2002]

§ 58.134 Sediment content.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of

Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, available from USDA, AMS, Dairy Programs, Dairy Standardization Branch.

(b) *Sediment content classification.* Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination required in § 58.133(a), as follows:

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No. 1 (acceptable)—not to exceed 0.50 mg. or equivalent.

No. 2 (acceptable)—not to exceed 1.50 mg. or equivalent.

No. 3 (probational, not over 10 days)—not to exceed 2.50 mg. or equivalent.

No. 4 (reject)—over 2.50 mg. or equivalent.

(c) *Frequency of tests.* At least once each month, at irregular intervals, the milk from each producer shall be tested as follows:

(1) *Milk in cans.* One or more cans of milk selected at random from each producer.

(2) *Milk in farm bulk tanks.* A sample shall be taken from each farm bulk tank.

(d) *Acceptance or rejection of milk.* If the sediment disc is classified as No. 1, No. 2, or No. 3 the producer's milk may be accepted. If the sediment disc is classified No. 4 the milk shall be rejected: *Provided that*, If the shipment of milk is commingled with other milk in a transport tank the next shipment shall not be accepted until its quality has been determined before being picked up; however, if the person making the test is unable to get to the farm before the next shipment it may be accepted but no further shipments shall be accepted unless the milk meets the requirements of No. 3 or better. In the case of milk classified as No. 3 or No. 4, if in cans, all cans shall be tested. Producers of No. 3 or No. 4 milk (cans or bulk) shall be notified immediately and shall be furnished applicable sediment discs and the next shipment shall be tested.

(e) *Retests.* On test of the next shipment (if in cans, all cans shall be tested) milk classified as No. 1, No. 2, or No. 3 may be accepted, but No. 4 milk shall be rejected. Retests of bulk milk

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classified as No. 4 shall be made before pickup. The producers of No. 3 or No. 4 milk shall be notified immediately, furnished applicable sediment discs and the next shipment tested.

This procedure of retesting successive shipments and accepting probational (No. 3) milk and rejecting No. 4 milk may be continued for not more than 10 calendar days. If at the end of this time all of the producer's milk does not meet the acceptable sediment content classification (No. 1 or No. 2), it shall be rejected.

[40 FR 47911, Oct. 10, 1975, Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 50 FR 34673, Aug. 27, 1985; 67 FR 48975, July 29, 2002]

§ 58.135 Bacterial estimate.

(a) *Methods of Testing.* Milk shall be tested for bacterial estimate by using one of the following methods or by any other method approved by Standard Methods for the Examination of Dairy Products.

- (1) Direct Microscopic clump count;
- (2) Standard plate count;
- (3) Plate loop count;
- (4) Pectin gel plate count;
- (5) Petrifilm aerobic count;
- (6) Spiral plate count;
- (7) Hydrophobic grid membrane filter count;
- (8) Impedance/conductance count;
- (9) Reflectance calorimetry.

(b) *Frequency of Testing.* A laboratory examination to determine the bacterial estimate shall be made on a representative sample of each producer's milk at least once each month at irregular intervals. Samples shall be analyzed at a laboratory in accordance with State regulations.

(c) *Acceptance of milk.* The following procedures shall be applied with respect to bacterial estimates:

(1) Whenever the bacterial estimate indicates the presence of more than 500,000 bacteria per ml., the producer shall be notified with a warning of the excessive bacterial estimate.

(2) Whenever two of the last four consecutive bacterial estimates exceed 500,000 per ml., the appropriate regulatory authority shall be notified and a written warning notice given to the producer. The notice shall be in effect so long as two out of the last four consecutive samples exceed 500,000 per ml.

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(3) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (c) (2) of this section. If this sample also exceeds 500,000 per ml., subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed when an additional sample of herd milk is tested and found satisfactory.

[67 FR 48975, July 29, 2002]

§ 58.136 Rejected milk.

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (§ 58.133(a)), if it is classified No. 4 for sediment content (§ 58.134), or if it tests positive for drug residue (§ 58.133(c)).

[58 FR 26913, May 6, 1993]

§ 58.137 Excluded milk.

A plant shall not accept milk from a producer if:

(a) The milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (§ 58.134);

(b) Three of the last five milk samples have exceeded the maximum bacterial estimate of 500,000 per ml. (§ 58.135 (c)(3)).

(c) Three of the last five milk samples have exceeded the maximum somatic cell count level of 750,000 per ml. (1,000,000 per ml. for goat milk) (§ 58.133 (b)(6)); or

(d) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (§ 58.133(c)(4)).

[58 FR 26913, May 6, 1993, as amended at 67 FR 48975, July 29, 2002]

§ 58.138 Quality testing of milk from new producers.

A quality examination and tests shall be made on the first shipment of milk from a producer shipping milk to a plant for the first time or resuming shipment to a plant after a period of non-shipment. The milk shall meet the requirements for acceptable milk, somatic cell count and drug residue level (§§ 58.133, 58.134 and 58.135). The buyer